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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/649,108

08/28/2000

Lieping Chen

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EXAMINER

OUSPENSKI, ILIA I

ART UNIT

PAPER NUMBER

1644

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DELIVERY MODE

08/01/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/649,108	Applicant(s) CHEN, LIEPING	
	Examiner ILIA OUSPENSKI	Art Unit 1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-10, 14-35, 38-42 and 45-64 is/are pending in the application.
- 4a) Of the above claim(s) 8, 10, 14-35, 38-42 and 45-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6, 7, 9 and 49-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/13/2008</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's amendment and remarks, filed on 05/13/2008, are acknowledged.

Claims 1 – 5, 11 – 13, 36 – 37, 43 – 44 have been canceled.

Claims 63 and 64 have been added.

Claims 6 – 10, 14 – 35, 38 – 42, and 45 – 64 are pending.

Claims 8, 10, 14 – 35, 38 – 42, and 45 – 48 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected Inventions/Species, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 02/28/2002.

Claims 6 – 7, 9, and 49 – 64 are presently under consideration.

The rejections of record can be found in the previous Office Action, mailed on 11/13/2007.

The objections and rejections of record have been withdrawn in view of Applicant's amendment and arguments, except as reiterated herein.

2. The following is a quotation of the **first paragraph of 35 U.S.C. 112**:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 55 and 62 stand rejected under **35 U.S.C. 112, first paragraph**, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. *This is a New Matter rejection.*

The rejection is maintained for the reasons of record. It is maintained that the application as-filed does not provide adequate support under 35 USC 112, first paragraph, for the recitation of approximate ranges, i.e. from “about” amino acid residue 23 to “about” amino acid residue 234 or 239.

Applicant’s arguments have been fully considered but have not been found convincing.

Applicant argues that the modifier “about” is allegedly fully supported by the fact that the description of the protein at the bottom of page 33 is given in terms of numerical amino acids and also generically termed domain regions.

This is not found to be sufficiently persuasive, because both the description at page 33 and Figure 2A denote specific amino acids, and not approximate ranges, as the boundaries of the respective domains.

Therefore, the rejection of record is maintained for the reasons of record. The rejection of record is incorporated by reference herein, as if reiterated in full.

Applicant is required to cancel the New Matter in the response to this Office Action. Alternatively, Applicant is invited to clearly point out the written support for the instant limitations.

4. The following is a quotation of the appropriate paragraphs of **35 U.S.C. 102** that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 6 – 7, 9, and 49 – 62 stand rejected, and newly added claims 63 – 64 are rejected under **35 U.S.C. 102(e)** as being anticipated by Freeman et al. (US Patent No. 7,038,013; of record; see entire document), for the reasons of record.

Applicant has acknowledged on the record that polypeptides taught and claimed by Freeman et al. are of the same sequence as the instantly claimed polypeptides, and suggests that interference proceedings may be appropriate between the instant claims and those of Freeman et al.

In response, the issue of possible interference will be considered once all the other outstanding grounds of rejection have been adequately addressed.

Therefore, the rejection of record is presently maintained for the reasons of record, as it applies to the amended and newly added claims. The rejection of record is incorporated by reference herein, as if reiterated in full.

6. Conclusion: no claim is allowed.

7. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ILIA OUSPENSKI whose telephone number is (571)272-2920. The examiner can normally be reached on Monday-Friday 9 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen B. O'Hara can be reached on 571-272-0878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ILIA OUSPENSKI, Ph.D./

Primary Examiner, Art Unit 1644

July 30, 2008